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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,752	03/13/2002	Yohei Kawabata	2001_1871A	2619

52349 7590 01/24/2008

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EXAMINER	
AILES, BENJAMIN A	

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
01/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/018,752	KAWABATA ET AL.	
	Examiner	Art Unit	
	Benjamin A. Ailes	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 October 2007 has been entered.

2. Claims 10-16 remain pending.

Claim Rejections - 35 USC § 112

3. Applicant's amendment to claims 11 and 15 have been entered in to the record and overcome the prior rejection set forth under 35 USC 112. This rejection has therefore been withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemkumar et al. (US 6,356,871 B1), hereinafter referred to as Hemkumar, in view of Olin (US 6,708,220 B1).

7. Regarding claim 10, Hemkumar teaches a storage-type data broadcast system for transmitting a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate which is determined by the reference clock information, and extracting the plurality of packet data composing the content from the transmitted first transport stream to generate and store a second transport stream, the data broadcast service system comprising:

a transmitter for transmitting the first transport stream of the plurality of packet data composing the content at the second transfer rate (col. 12, lines 17-23, transfer based on resynchronized value).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach the detecting of a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second

transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of ordinary skill in the art would have been motivated to make such a combination as taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream ((Hemkumar, col. 12, lines 30-32), a system time clock recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, ll. 30-44), a program clock reference correction factor calculator for detecting the transfer rate ratio based on two contiguous extracted program clock references, and deriving, based on the detected transfer rate ratio, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), a program clock reference corrector for correcting the extracted program clock reference based on the derived correction factor (Hemkumar, col. 12, lines 35-38), and wherein said system time clock recoverer is feedback-controlled to recover the system

time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

8. Regarding claim 11, Hemkumar teaches a storage-type data broadcast system for transmitting a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate, which is determined by the reference clock information, and extracting the plurality of packet data composing the content from the transmitted first transport stream to generate and store a second transport stream, the storage-type data broadcast service system comprising:

a transmitter for transmitting the first transport stream of the plurality of packet data composing the content at the second transfer rate (col. 12, lines 17-23).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of ordinary skill in the art would have been motivated to make such a combination as

taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream ((Hemkumar, col. 12, lines 30-32), a system time clock recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, ll. 30-44), a system time clock/program clock reference correction factor calculator for deriving, based on the extracted program clock reference and the recovered system time clock, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), a program clock reference corrector for correcting the extracted program clock reference based on the correction factor (Hemkumar, col. 12, lines 35-38), and wherein said system time clock recoverer is feedback-controlled to recover the system time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

9. Regarding claim 12, Hemkumar teaches a storage-type data broadcast system for transmitting a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate, which is determined by the reference clock information, and extracting the plurality of packet data composing the content from the transmitted first transport stream to

generate and store a second transport stream, the storage-type data broadcast service system comprising:

a transmitter for transmitting the first transport stream of the plurality of packet data composing the content at the second transfer rate (col. 12, lines 17-23).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of ordinary skill in the art would have been motivated to make such a combination as taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream ((Hemkumar, col. 12, lines 30-32), a program clock reference specifier for causing said program clock reference extractor to extract, as a standard program clock reference, the program clock reference contained in the first transport stream and contained in packet data transferred at the first transfer rate (Hemkumar, col. 12, ll. 30-

44), and a system time clock recoverer for recovering, based on the extracted standard program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, lines 35-38).

10. Regarding claim 13, Hemkumar teaches a storage-type data broadcast system for transmitting a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate, which is determined by the reference clock information, and extracting the plurality of packet data composing the content from the transmitted first transport stream to generate and store a second transport stream, the storage-type data broadcast service system comprising:

a transmitter for transmitting the first transport stream of the plurality of packet data composing the content at the second transfer rate (col. 12, lines 17-23).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of

ordinary skill in the art would have been motivated to make such a combination as taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream ((Hemkumar, col. 12, lines 30-32), a system time clock recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, ll. 30-44), a program clock reference correction factor generator for extracting the transfer rate ratio from the first transport stream, and deriving, based on the extracted transfer rate ration, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), a program clock reference corrector for correcting the extracted program clock reference based on the correction factor (Hemkumar, col. 12, lines 35-38), and wherein said system time clock recoverer is feedback-controlled to recover the system time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

11. Regarding claim 14, Hemkumar teaches a receiver for receiving a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate which is determined by the reference clock information, and extracting the plurality of packet data composing the

content from the received first transport stream to generate and store a second transport stream (col. 12, lines 24-29).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of ordinary skill in the art would have been motivated to make such a combination as taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-32), a system time clock recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, ll. 30-44), a program clock reference correction factor calculator for detecting the transfer rate ratio based on two contiguous extracted program clock references, and deriving, based on the detected transfer rate ratio, a correction factor for correcting the extracted program

clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), a program clock reference corrector for correcting the extracted program clock reference based on the derived correction factor (Hemkumar, col. 12, lines 35-38), and wherein said system time clock recoverer is feedback-controlled to recover the system time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

12. Regarding claim 15, Hemkumar teaches a receiver for receiving a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate which is determined by the reference clock information, and extracting the plurality of packet data composing the content from the received first transport stream to generate and store a second transport stream (col. 12, lines 24-29).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of

ordinary skill in the art would have been motivated to make such a combination as taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-32), a system time clock recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, ll. 30-44), a system time clock/program clock reference rate ratio calculator for deriving, based on the extracted program clock reference and the recovered system time clock, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), a program clock reference corrector for correcting the extracted program clock reference based on the correction factor (Hemkumar, col. 12, lines 35-38), and wherein said system time clock recoverer is feedback-controlled to recover the system time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

13. Regarding claim 16, Hemkumar teaches a receiver for receiving a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate which is determined by the reference clock information, and extracting the plurality of packet data composing the

content from the received first transport stream to generate and store a second transport stream (col. 12, lines 24-29).

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not explicitly teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of ordinary skill in the art would have been motivated to make such a combination as taught by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37). Hemkumar and Olin teach the receiver comprising: a program clock reference extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-32), a program clock reference specifier for causing said program clock reference extractor to extract, as a standard program clock reference, the program clock reference contained in the first transport stream and contained in packet data transferred at the first transfer rate (Hemkumar, col. 12, ll. 30-44), anda system time clock recoverer for recovering, based on the extracted standard

program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, lines 35-38).

Response to Arguments

14. Applicant's arguments filed 25 October 2007 have been fully considered but they are not persuasive.

Claims 10 and 14

15. Applicant argues that claims 10 and 14 are patentable over the combination of Hemkumar and Olin since claims 10 and 14 recite a receiver including a program clock reference correction factor calculator for detecting a transfer rate ration between a first transfer rate and a second transfer rate based on two contiguous extracted program clock references, and deriving, based on the detected transfer rate ratio, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate; and a program clock reference corrector for correcting the extracted program clock reference based on the derived correction factor. Applicant states that the features of the receiver in claim 10 is a system time clock can be properly recovered without re-encoding a transport stream, even when distributed at a bit stream transfer rate that is different from the original bit stream transfer rate. And finally argues that the combination of Hemkumar and Olin fails to disclose or suggest the above-discussed features of claim 10 that are capable of achieving this effect. Specifically, applicant argues (on page 9, first paragraph) that Hemkumar does not disclose or suggest the claimed program clock reference correction factor calculator and program clock reference corrector. Examiner respectfully disagrees with the applicant. In response to

applicant's initial argument, examiner sustains the rejection as outlined above in the rejections with respect to the newly filed claims. In response to applicant's argument that Hemkumar fails to disclose or suggest a "a program clock reference correction factor calculator, and program clock reference corrector", examiner maintains that Hemkumar teaches on these aspects in column 12. Specifically, Hemkumar teaches on the aspect of a "system time clock recoverer" in lines 24-30 wherein a System Time Clock (STC) is appropriately set and derived from an oscillator and is generated on the decoder end of the system. Hemkumar teaches on the aspect of a "program clock reference correction factor calculator" in lines 35-38 of column 12 wherein a PCR value is calculated wherein synchronization is deemed necessary. Finally, Hemkumar teaches on the aspect of a "program clock reference corrector" in lines 35-38 of column 12 wherein Hemkumar further teaches the need to calculate and synchronize received PCR values by the decoder in order to maintain synchronization. Therefore, with respect to the combination of Hemkumar and Olin, claims 10 and 14 are not deemed patentable.

Claims 11 and 15

16. Applicant argues that claims 11 and 15 are patentable over the combination of Hemkumar and Olin since claims 11 and 15 recite a receiver including a rate ratio calculator for deriving, based on an extracted program clock reference and a recovered system time clock, a correction factor for correcting the extracted program clock reference and a recovered system time clock, a correction factor for correcting the extracted program clock reference so as to match a second transfer rate; and a

program clock reference corrector for correcting the extracted program clock reference based on the correction factor. And argues further that the combination of Hemkumar and Olin fails to disclose or suggest the above-discussed features of claim 11 that are capable of achieving this effect. Examiner respectfully disagrees with the applicant for the same reasons as set forth above with respect to claims 10 and 14. In response to applicant's initial argument, examiner sustains the rejection as outlined above in the rejections with respect to the newly filed claims. In response to applicant's argument that Hemkumar fails to disclose or suggest a "rate ratio calculator and program clock reference corrector", examiner maintains that Hemkumar teaches on these aspects in column 12. Specifically, Hemkumar teaches on the aspect of a "rate ratio calculator" in lines 24-30 wherein a System Time Clock (STC) is appropriately set and derived from an oscillator and is generated on the decoder end of the system. Hemkumar teaches on the aspect of a "program clock reference rate ratio calculator" in lines 35-38 of column 12 wherein a PCR value is calculated wherein synchronization is deemed necessary. Finally, Hemkumar teaches on the aspect of a "program clock reference corrector" in lines 35-38 of column 12 wherein Hemkumar further teaches the need to calculate and synchronize received PCR values by the decoder in order to maintain synchronization. Therefore, with respect to the combination of Hemkumar and Olin, claims 11 and 15 are not deemed patentable.

Claims 12 and 16

17. Applicant argues that claims 12 and 16 are patentable over the combination of Hemkumar and Olin since claim 12 recites a receiver for receiving a first transport

stream transmitted by a transmitter at a second transfer rate and detecting a transfer rate ratio between a first transfer rate and the second transfer rate to generate a second transport stream based on the detected transfer rate ratio, wherein the receiver comprises a program clock reference specifier for causing a program clock reference extractor to extract, as a standard program clock reference, a program clock reference contained in the first transport stream and contained in packet data transferred at the first transfer rate. Specifically, applicant argues that Hemkumar fails to disclose or suggest the claimed "receive the transport stream at a second transfer rate, detects a transfer rate ratio between a first transfer rate and the second transfer rate to generate a second transport stream based on the detected transfer rate ratio, and extracts, as a standard program clock reference, a program clock reference contained in the transport stream and contained in packet data transferred at the first transfer rate" as recited in claim 12. Examiner respectfully disagrees with the applicant. In response to applicant's initial argument, examiner sustains the rejection as outlined above in the rejections with respect to the newly filed claims. Further, Hemkumar teaches on the aspect of a transport stream at a second rate wherein Hemkumar teaches in column 12, lines 17-23 the utilization of a transport stream wherein a frequency is determined based on rates of update. A transfer rate change is detected in column 12, lines 35-40 by the calculation of a data time rate change based also on received PCR values. Hemkumar teaches in lines 24-30 of column 12 wherein a System Time Clock (STC) is appropriately set and derived from an oscillator and is generated on the decoder end of the system, in lines 35-38 of column 12 wherein a PCR value is calculated wherein synchronization is

deemed necessary and finally, Hemkumar teaches in lines 35-38 of column 12 wherein Hemkumar further teaches the need to calculate and synchronize received PCR values by the decoder in order to maintain synchronization. Therefore, with respect to the combination of Hemkumar and Olin, claims 12 and 16 are not deemed patentable.

Claim 13

Applicant argues that claim 13 is patentable over the combination of Hemkumar and Olin since claim 13 recites a receiver including a program clock reference correction factor generator for extracting a transfer rate ratio from a first transport stream, and deriving, based on the extracted transfer rate ratio, a correction factor for correcting an extracted program clock reference so as to match a second transfer rate; and a program clock reference corrector for correcting the extracted program clock reference based on the correction factor.. Specifically, applicant argues that Hemkumar and Olin fail to disclose or suggest the claimed "program clock reference correction factor generator, and program clock reference corrector" as recited in claim 13. Examiner respectfully disagrees with the applicant. In response to applicant's initial argument, examiner sustains the rejection as outlined above in the rejections with respect to the newly filed claims. In response to applicant's argument that Hemkumar fails to disclose or suggest a "program clock reference correction factor generator, and program clock reference corrector", examiner maintains that Hemkumar teaches on these aspects in column 12. Hemkumar teaches on the aspect of a "a program clock reference correction factor generator" in lines 35-38 of column 12 wherein a PCR value is calculated wherein synchronization is deemed necessary. Finally, Hemkumar teaches

on the aspect of a "program clock reference corrector" in lines 35-38 of column 12 wherein Hemkumar further teaches the need to calculate and synchronize received PCR values by the decoder in order to maintain synchronization. Therefore, with respect to the combination of Hemkumar and Olin, claims 12 and 16 are not deemed patentable.

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899. The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

baa

Andrew Caldwell

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER